Continental Corporation Vs. Commissioner of Customs, Mumbai

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SooperKanoon Citation : sooperkanoon.com/21821

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-27-2001

Reported in : (2002)(148)ELT690Tri(Mum.)bai

Appellant : Continental Corporation

Respondent : Commissioner of Customs, Mumbai

Judgement :

1. This appeal is against the order of the Commissioner (Appeals) confirming the order of the Asst. Collector of Customs holding the goods imported by the appellant to be liable to confiscation, and importer liable to penalty, but reducing the redemption fine and penalty determined by the Asst. Collector from Rs.45000/- to Rs.30,000/- and Rs.22,750 to Rs. 10,000/-. Appellant is absent and unrepresented despite notice. I have rad the relevant papers and heard the departmental representative.

2. The appellant had imported balsamodendron mukul also known as gugul and claimed clearance on the ground that the goods were not consumer goods and not in the negative list of imports. The departmental representative found the goods to be widely used in the manufacture of ayurvedic and unani medicaments although they found some use in perfumers and agarbattis. Public notice 117 dated 1.7.93 issued by the licensing authority prohibited import without licence any crude drug used in ayurvedic and unani medicine which is not included in the list appended to the notice. Gugal was not included in that list. It is for this reason that the Asst. Collector passed his order.

3. The first contention in the appeal is that there is no finding that gugal is consumer goods; its import is permitted unless it falls in the negative list. There is nothing to show that it is in the neg active list. Paragraph 22 of the relevant import policy permitted import of capital goods, raw materials etc. without any restriction except to the extent that such imports were restricted or prohibited by the negative list of the import or any other provision of this policy or any the law time being in force. It is not an argument before me that public notice 117 was not part of or was not issued under the provisions under the policy. That being the case, the contents of the public notice cannot be ignored.

4. The next contention that a public notice only applies to such crude drugs which are exclusively used for ayurvedic and unani medicaments cannot be accepted. It is not contended that there is any such specific condition in the public notice. It will follow that a commodity finding use in the manufacture of such medicaments will be regulated by the public notice. I therefore see no reason to interfere.